

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
FIRST DEPARTMENT

People v. Cuevas

2026 NY Slip Op 02940 (N.Y. Ct. App. 2026) · No. Ind. No. 1163/10; Appeal Nos. 6600-6600A; Case Nos. 2019-4501, 2024-05535 · Decided May 12, 2026

SUMMARY

The Appellate Division, First Department unanimously affirmed the defendant's judgment of conviction and the denial of his CPL 440.10 motion to vacate the judgment. The court held that counsel provided effective assistance, the lineup identification was properly admitted, and the prosecution's suppression of substantiated CCRB complaints did not establish material prejudice under Brady. The court also found most prosecutorial-summation claims unpreserved and declined to reduce the sentence.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, First Department
WRITING FOR THE COURT	Angela M. Scarpulla, J.P.; Mendez, J.; Shulman, J.; Rodriguez, J.; Hagler, J.
JURISDICTION	New York Supreme Court, Appellate Division, First Department
DECIDED	May 12, 2026
DOCKET	Ind. No. 1163/10; Appeal Nos. 6600-6600A; Case Nos. 2019-4501, 2024-05535
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed from a judgment of conviction after a jury retrial and from an order denying his CPL 440.10 motion to vacate the judgment. The Appellate Division unanimously affirmed both the judgment and order.
STANDARD OF REVIEW	The court reviewed the denial of the CPL 440.10 motion and suppression ruling for whether the lower court acted providently, reviewed ineffective-assistance claims under the state and federal standards, and considered preservation of prosecutorial-summation claims. The opinion does not state a separate formal standard of review for each issue.

PRECEDENTIAL VALUE	published
PARTIES	Yonander Cuevas v. The People of the State of New York

TOPICS

ineffective assistance suppression of evidence post-conviction relief criminal procedure
appellate procedure

PRACTICE AREAS

criminal law criminal procedure post-conviction relief appellate practice

QUESTIONS PRESENTED

1. Whether trial counsel provided ineffective assistance by declining to introduce DNA evidence excluding defendant and his codefendant as contributors to DNA on duct tape.
2. Whether the lineup identification procedure was unduly suggestive and whether an in-court identification had an independent source.
3. Whether the prosecution's suppression of substantiated CCRB complaints constituted a material Brady violation warranting vacatur of the judgment and a new trial.
4. Whether the defendant preserved his challenges to prosecutorial summation remarks and, alternatively, whether those remarks denied him a fair trial.
5. Whether defendant's sentence should be reduced.

HOLDINGS

1. Defendant received effective assistance under both state and federal standards because counsel's decision to focus on a misidentification defense and not introduce the duct-tape DNA evidence was a reasonable strategic choice.
2. The motion to suppress the lineup identification was properly denied because the detective's remarks did not automatically render the identification procedure impermissibly suggestive, and the detective's certainty and nonidentification instructions ameliorated any suggestiveness.
3. Even if the lineup procedure had been suggestive, an in-court identification could still be admitted because the victim had an independent recollection of defendant based on ample opportunity to observe him during the robbery.
4. The denial of defendant's CPL 440.10 motion based on alleged Brady violations was proper because, although the substantiated CCRB complaints were favorable and suppressed, defendant failed to establish material prejudice.
5. Most of defendant's challenges to the prosecutor's summation remarks were unpreserved because defendant failed to make timely or appropriate objections or seek further relief. His cumulative

constitutional claim was also unpreserved because he did not object or move for a mistrial on that ground.

6. Alternatively, the challenged summation remarks did not warrant reversal because they were permissible comments based on the evidence and responsive to defendant's summation arguments.

KEY QUOTATIONS

"To establish a Brady violation warranting a new trial, "a defendant must show that (1) the evidence is favorable to the defendant because it is either exculpatory or impeaching in nature; (2) the evidence was suppressed by the prosecution; and (3) prejudice arose because the suppressed evidence was material"'"
([*2])

FACTUAL BACKGROUND

Defendant was convicted after a jury retrial of multiple kidnapping, robbery, burglary, larceny, and criminal-possession offenses arising from a robbery in which victims were tied with duct tape and a van was stolen. Before a lineup, a detective told a victim that the police had the robbers and asked the victim to identify them, but also emphasized that the victim should be completely certain and need not identify anyone. The victim had an opportunity to observe defendant for five to ten minutes from approximately twelve to fourteen feet away. Defendant later sought post-conviction relief based on counsel's handling of exculpatory DNA evidence, allegedly suppressed CCRB complaints, and prosecutorial summation remarks.

PROCEDURAL HISTORY

The Supreme Court, Bronx County, conducted pretrial hearings and the first trial before Justice Colleen D. Duffy, and the retrial and sentencing before Justice John W. Carter. Judgment was rendered October 13, 2016, convicting defendant of multiple kidnapping, robbery, burglary, larceny, and criminal-possession offenses and imposing an aggregate 20-year sentence. Justice Judith Lieb later denied defendant's CPL 440.10 motion to vacate the judgment in an order entered on or about August 8, 2024; the Appellate Division affirmed.

DISPOSITION

affirmed

CASES CITED

- People v. Benevento, 91 N.Y.2d 708, 713-714 (1998)
- Strickland v. Washington, 466 U.S. 668 (1984)
- People v. Rodriguez, 64 N.Y.2d 738, 740 (1984)
- People v. Logan, 25 N.Y.2d 184, 192 (1969), cert. denied, 396 U.S. 1020 (1970)
- People v. Adams, 53 N.Y.2d 241, 251 (1981)
- People v. Williams, 222 A.D.2d 149, 152 (1st Dep't 1996), lv. denied, 88 N.Y.2d 1072 (1996)
- Brady v. Maryland, 373 U.S. 83, 87 (1963)
- People v. Garrett, 23 N.Y.3d 878, 885 (2014)

- People v. Smith, 27 N.Y.3d 652, 661 (2016)
- People v. Guica, 33 N.Y.3d 462, 473-474 (2019)
- Ulett, 33 N.Y.3d 512, 520 (2019)
- People v. Romero, 7 N.Y.3d 911, 912 (2006)
- People v. Iannelli, 69 N.Y.2d 684 (1986), cert. denied, 482 U.S. 914 (1987)
- People v. Overlee, 236 A.D.2d 133, 144 (1st Dep't 1997), lv. denied, 91 N.Y.2d 976 (1998)
- People v. D'Alessandro, 184 A.D.2d 114, 118-119 (1st Dep't 1992), lv. denied, 81 N.Y.2d 884 (1993)

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